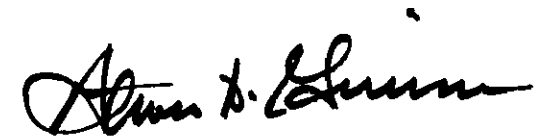


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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

JOE W. and PAULETTE BALLARD,
individually; EVERETT D. BROWN,
individually; ARTHUR and LOTIS EDANO,
individually; LEONARD D. and ALICIA G.
EMERY, individually; JAMES K. GOULD,
individually; SEAN K. and SHAWNA D.
GUSTAFSON, individually; SCOTT S. HOLT,
individually; TING CHENG HUNG and CHIA
LIN HUNG, individually; STEPHEN E.
JOHNSON LIVING TRUST; JUSTIN and
MARISA KAGAN, individually; LAWRENCE
and MARIA LIVIGNI, individually; MICHAEL
and CHRISTINA MALANIAK, individually;
RICHARD MOFFETT, individually; DANTE B.
and BRENDA A. PABALAN, individually;
ROBERT SCHAEFER, individually;
FERNANDO and MELENDRE SORIANO,
individually; SHEILA K. STUPPY, individually;
BRANDON and BRANDIE THOMPSON,
individually; FRANK and ELEANOR WOOD,
individually; KEVIN FRENCH, individually;
STEVIE B. SORIANO, individually; JAMES A.
DAVIS and HELEN LOWE-DAVIS,
individually; MARC A. FRAZIER, individually;
SANDRA MITE and JOSE JAQUEZ,
individually; ELENA MORALES, individually;
WILFORD SAVAGE and SANDRA SAVAGE,
individually; KEVIN WHITE and ALLISON
MANZ, individually;

) CASE NO. A-15-723303-D

) DEPT. NO. XVI

) **PLAINTIFFS' SECOND AMENDED**
) **CONSTRUCTION DEFECT COMPLAINT**

{00263452.DOC}

Plaintiffs,

v.

GREYSTONE NEVADA, LLC, a Delaware
Limited Liability Company; U.S. HOME
CORPORATION, a Delaware Corporation;

Defendants.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT PLAINTIFFS hereby file this SECOND AMENDED CONSTRUCTION DEFECT COMPLAINT pursuant to the Order Granting Plaintiffs' Motion for Leave to File Second Amended Construction Defect Complaint attached hereto as Exhibit 1. This Second Amended Complaint is being filed in order to add by name the following Plaintiff Homeowners to the above-captioned matter; to substitute KEVIN WHITE and ALLISON MANZ in place of ROBERT D. LEAL, and to remove the BREACH OF IMPLIED WARRANTIES – THIRD PARTY BENEFICIARY AS AGAINST ALL DEFENDANTS, AND DOES 1 THROUGH 500 and BREACH OF IMPLIED WARRANTY OF HABITABILITY AS AGAINST ALL DEFENDANTS, AND DOES 1 THROUGH 500 Causes of Action from the Complaint:

PLAINTIFF	ADDRESS
JAMES A. DAVIS HELEN LOWE-DAVIS	3816 Ocelot Court North Las Vegas, NV 89084
MARC A. FRAZIER	3724 Alcantara Lane North Las Vegas, NV 89084
SANDRA MITE JOSE JAQUEZ	3732 White Lion Lane North Las Vegas, NV 89084
ELENA MORALES	7109 Puetollano Drive North Las Vegas, NV 89084
WILFORD SAVAGE SANDRA SAVAGE	3813 Campanario Ave. North Las Vegas, NV 89084
KEVIN WHITE ALLISON MANZ	6953 Puetollano Drive North Las Vegas, NV 89084

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COMPLAINT FOR DAMAGES

Comes Now Plaintiffs,

PLAINTIFF	ADDRESS
JOE W. BALLARD PAULETTE BALLARD	3609 Alcantara Lane North Las Vegas, NV 89084
EVERETT D. BROWN	6929 Puetollano Drive North Las Vegas, NV 89084
ARTHUR EDANO LOTIS EDANO	3812 Campanario Ave. North Las Vegas, NV 89084
LEONARD D. EMERY ALICIA G. EMERY	3716 Tiger Ridge Lane North Las Vegas, NV 89084
JAMES K. GOULD	7132 Manzanares Drive North Las Vegas, NV 89084
SEAN K. GUSTAFSON SHAWNA D. GUSTAFSON	6957 Puetollano Drive North Las Vegas, NV 89084
SCOTT S. HOLT	3713 Tiger Ridge Lane North Las Vegas, NV 89084
TING CHENG HUNG CHIA LIN HUNG	3624 Tiger Ridge Lane North Las Vegas, NV 89084
STEPHEN E. JOHNSON LIVING TRUST	7129 Puetollano Drive North Las Vegas, NV 89084
JUSTIN KAGAN MARISA KAGAN	7108 Manzanares Drive North Las Vegas, NV 89084
LAWRENCE LIVIGNI MARIA LIVIGNI	3812 Ocelot Court North Las Vegas, NV 89084
MICHAEL MALANIAK CHRISTINA MALANIAK	6961 Puetollano Drive North Las Vegas, NV 89084
RICHARD MOFFETT	3720 Tiger Ridge Lane North Las Vegas, NV 89084
DANTE B. PABALAN BRENDA A. PABALAN	3917 Campanario Ave. North Las Vegas, NV 89084
ROBERT SCHAEFER	3617 Alcantara Lane North Las Vegas, NV 89084
FERNANDO SORIANO MELENDRE SORIANO	3728 White Lion Lane North Las Vegas, NV 89084
SHEILA K. STUPPY	3933 San Esteban Ave. North Las Vegas, NV 89084
BRANDON THOMPSON BRANDIE THOMPSON	3717 Tiger Ridge Lane North Las Vegas, NV 89084
FRANK WOOD ELEANOR WOOD	3728 Tiger Ridge Lane North Las Vegas, NV 89084
KEVIN FRENCH	7037 Villada Street North Las Vegas, NV 89084
STEVIE B. SORIANO	3728 White Lion Lane

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	North Las Vegas, NV 89084
JAMES A. DAVIS HELEN LOWE-DAVIS	3816 Ocelot Court North Las Vegas, NV 89084
MARC A. FRAZIER	3724 Alcantara Lane North Las Vegas, NV 89084
SANDRA MITE JOSE JAQUEZ	3732 White Lion Lane North Las Vegas, NV 89084
ELENA MORALES	7109 Puetollano Drive North Las Vegas, NV 89084
WILFORD SANDRA SAVAGE	3813 Campanario Ave. North Las Vegas, NV 89084
KEVIN WHITE ALLISON MANZ	6953 Puetollano Drive North Las Vegas, NV 89084

all individually (hereinafter "Plaintiffs"), by and through their attorneys, Duane E. Shinnick, Esq., and Bradley S. Rosenberg, Esq. of the law firm of SHINNICK & RYAN NV P.C., and for causes of action against Defendants, and each of them, allege and complain as follows:

GENERAL ALLEGATIONS

1. Plaintiffs are owners of individual residences within the housing developments known as SEVILLE/BEL ETAGE in North Las Vegas, Nevada, more specifically described as residences in the subdivision of ALIANTE NORTH PARCEL 19 as recorded with the Clark County Recorder in Plat Book 119, page 28.

2. Pursuant to NRS 40.600 through 40.695 inclusive, Plaintiffs seek recovery for damages suffered by each unit owner as to their separate interests as delineated by law.

2a. Pursuant to NRS 40.645 Plaintiffs have in good faith attempted to serve written notice on all defendants by certified mail at the addresses listed on the Nevada State Contractors Board records, or at their last known addresses. Plaintiffs have substantially complied with the notice and pre-filing requirements of NRS 40.645.

3. The property and buildings thereupon will hereinafter sometimes be referred to as the "subject property."

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1 4. NOT USED

2 5. The Defendants are identified as follows: Plaintiffs allege that Defendant GREYSTONE
3 NEVADA, LLC, a Delaware Limited Liability Company, authorized to do business in the State of
4 Nevada and has conducted and/or now does conduct business within the County of Clark, State of
5 Nevada, including but not limited to development, construction, improvement, conversion and/or sale
6 of the subject property.
7

8 5a. Plaintiffs allege that Defendant U.S. HOME CORPORATION, a Delaware Corporation,
9 authorized to do business in the State of Nevada and has conducted and/or now does conduct business
10 within the County of Clark, State of Nevada, including but not limited to development, construction,
11 improvement, conversion and/or sale of the subject property.
12

13 6. Plaintiffs allege that at all times herein mentioned, Defendants, and each of them, were the
14 agents, servants and employees of each other and were acting in the course and scope of their agency
15 or employment in doing the acts herein alleged.
16

17 7. Plaintiffs do not know the true names and capacities of defendants sued herein as Does 1 to
18 500, including, and therefore sue these defendants by such fictitious names. Plaintiffs are informed
19 and believe, and thereon allege, that each of the said fictitiously named defendants are responsible in
20 some manner for the defective and negligent engineering, architecture, construction, supply of
21 improper materials, and inspection of the subject property single family homes, or in some other
22 actionable manner were an integral part of the chain of development, construction and marketing of
23 the subject property single family homes, and that Plaintiffs damages as herein alleged were
24 proximately caused by their conduct. Plaintiffs pray for leave to amend this Complaint when the true
25 names and capacities of such defendants are ascertained.
26
27
28

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1 8. Defendants Does 1 through 500, inclusive, whether individual, corporate, associate or
2 otherwise are fictitious names of defendants whose true names and capacities, at this time, are
3 unknown to Plaintiffs. Plaintiffs are informed and believe and thereupon allege that at all times
4 herein mentioned each of the defendants sued herein as Does 1 through 500 was the agent, servant
5 and employee of his or her co-defendants, and in doing the things hereinafter mentioned was acting in
6 the scope of his or her authority as such agent, servant and employee, and with the permission and
7 consent of his or her co-defendants; and that each of said fictitiously named defendants, whether an
8 agent, corporation, association, or otherwise, is in some way liable or responsible to the Plaintiffs on
9 the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter
10 alleged. At such time as defendant's true names become known to Plaintiffs, Plaintiffs will ask leave
11 of this Court to amend this Complaint to insert said true names and capacities.
12
13

14 9. Plaintiffs have discovered defects and damages within the periods of the applicable statutes
15 of limitations that the subject property has and is experiencing defective conditions, in particular,
16 there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt
17 coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect
18 intrusion through foundation slabs, and other poor workmanship.
19
20

21 It was the result of the representations by Defendants that they would repair the defects and
22 their conduct in so performing some works of repair, as well their proposals for correcting the defects
23 that induced Plaintiffs to withhold conducting their own independent investigation and/or filing suit
24 against said Defendants. By virtue of the fact that Defendants were the developers, contractors and
25 sellers of the subject property and aware of the particular nature of the project, including its design,
26 composition, and component parts, and when said Defendants represented that Defendants would
27 repair the defects and, in fact, some works of repair were commenced, Plaintiffs were justified in
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1 relying on said representations and conduct by said Defendants in permitting them to investigate and
 2 repair the defects. As a result of Defendants' conduct, Plaintiffs' obligation to commence an action
 3 against Defendants for the defects and/or damages set forth above was tolled pursuant to NRS 40.668
 4 and NRS 40.695.
 5

6 On numerous occasions Defendants represented to Plaintiffs that the defective systems and
 7 materials were not inadequate, and that repairs had been successfully performed thereby inducing
 8 reasonable reliance thereupon by Plaintiffs that conditions were not in need of repairs, therefore,
 9 Defendants are estopped from asserting any potentially applicable statutes of limitations. Damage
 10 has also occurred at various times in the past, including progressive damage.
 11

12 10. Within the last year, Plaintiffs have discovered that the subject property has and is
 13 experiencing additional defective conditions, in particular, there are damages stemming from, among
 14 other items, defectively built roofs, leaking windows, dirt coming through windows, drywall
 15 cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and
 16 other poor workmanship which would extend the statute of limitations an additional two (2) years
 17 pursuant to NRS 11.203(2).
 18

19 **FIRST CAUSE OF ACTION**

20 **(Negligence and Negligence per se**

21 **As Against All Defendants, and Does 1 through 500)**

22 11. Plaintiffs reallege and incorporate by reference paragraphs 1 through 10 of the Complaint
 23 as though fully set forth herein.
 24

25 12. Plaintiffs allege that Defendants, and each of them, knew or should have known that if the
 26 subject structure and subject premises were not properly or adequately designed, engineered,
 27
 28

1 marketed, supervised and/or constructed, that the owners and users would be substantially damaged
2 thereby, and that the subject structures would be defective and not of merchantable quality.

3
4 13. Plaintiffs allege that the Defendants, and each of them, named herein were under a duty to
5 exercise ordinary care to avoid reasonably foreseeable injury to users and purchasers of the subject
6 premises and structures, and knew or should have foreseen with reasonable certainty that purchasers
7 and/or users would suffer the monetary damages set forth herein, if said Defendants, and each of
8 them, failed to perform their duty to cause the subject premises and subject structures to be designed,
9 engineered and completed in a proper and workmanlike manner and fashion.

10
11 14. Said Defendants, and each of them, breached their duty owed to Plaintiffs, failed and
12 neglected to perform the work, labor and services properly or adequately in that each said Defendants
13 so negligently, carelessly, recklessly and in an unworkmanlike manner designed, constructed and
14 inspected the subject property and performed the aforesaid work, labor and/or services, such that the
15 subject premises and subject structures as described herein were designed, engineered and/or
16 constructed improperly, negligently, carelessly and/or in an unworkmanlike manner, thereby
17 breaching the duty owed to Plaintiffs. Further, Defendant sellers knew or should have known that the
18 premises were constructed in an unworkmanlike manner.

19
20 15. Defendants' negligence alleged above includes the failure to meet the applicable building
21 codes and ordinances which were in effect. Plaintiffs' members and their predecessors in interest
22 were members of the class of persons which the building codes and ordinances were designed to
23 protect. Such violations are negligence per se on the part of Defendants, and each of them.

24
25 16. As a direct and proximate result of the foregoing negligence and negligence per se,
26 carelessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of
27 them, Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently
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unaware of the precise amount of damages needed in order to correct the defective conditions of the subject property and subject structures, but will establish the same at trial according to proof.

17. Plaintiffs are also entitled to the damages set forth at NRS 40.655.

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows:

1. For general and special damages in excess of \$10,000.00 including but not limited to, costs of repair, loss of market value, loss of use, loss of investment and out-of-pocket expenses to be determined at time of trial;
2. For damages in an amount according to proof;
3. For reasonable attorneys fees and costs according to proof.
4. For prejudgment and post-judgment interest on all sums awarded, according to proof at the maximum legal rate;
5. For all damages pursuant to NRS 40.600 through 40.695; in particular 40.650 and 40.655;
6. For costs of suit incurred;
7. For such other and further relief as the Court may deem just and proper.

DATED this 11th day of February, 2016

SHINNICK & RYAN NV P.C.

By: /s/ **Bradley S. Rosenberg**

Duane E. Shinnick, Esq.

Bar No. 7176

Bradley S. Rosenberg, Esq.

Bar No. 8737

4001 Meadows Lane

Las Vegas, NV 89107

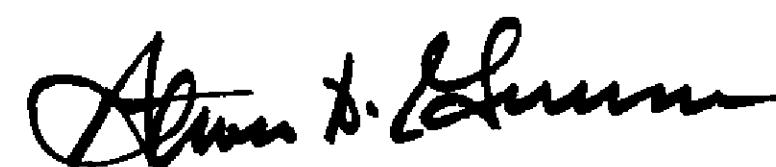
Attorneys for Plaintiffs

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Exhibit “1”

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CLERK OF THE COURT

1 **OGM**

2 Duane E. Shinnick, Esq.

3 Bar No. 7176

4 Bradley S. Rosenberg, Esq.

5 Bar No. 8737

6 SHINNICK & RYAN NV P.C.

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Attorneys for PLAINTIFFS

DISTRICT COURT

CLARK COUNTY, NEVADA

JOE W. and PAULETTE BALLARD,

individually; EVERETT D. BROWN,

individually; ARTHUR and LOTIS EDANO,

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EMERY, individually; JAMES K. GOULD,

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GUSTAFSON, individually; SCOTT S. HOLT,

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LIN HUNG, individually; STEPHEN E.

JOHNSON LIVING TRUST; JUSTIN and

MARISA KAGAN, individually; ROBERT D.

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LIVIGNI, individually; MICHAEL and

CHRISTINA MALANIAK, individually;

RICHARD MOFFETT, individually; DANTE B.

and BRENDA A. PABALAN, individually;

ROBERT SCHAEFER, individually;

FERNANDO and MELENDRE SORIANO,

individually; SHEILA K. STUPPY, individually;

BRANDON and BRANDIE THOMPSON,

individually; FRANK and ELEANOR WOOD,

individually; KEVIN FRENCH, individually;

STEVIE B. SORIANO, individually;

Plaintiffs,

v.

GREYSTONE NEVADA, LLC, a Delaware

Limited Liability Company; U.S. HOME

CORPORATION, a Delaware Corporation; and

DOES 1 through 500, inclusive,

Defendants.

CASE NO. A-15-723303-D

DEPT. NO. XVI

**ORDER GRANTING PLAINTIFFS'
MOTION FOR LEAVE TO FILE A SECOND
AMENDED CONSTRUCTION DEFECT
COMPLAINT**

Date of Hearing: January 20, 2016

Time: 9:00am

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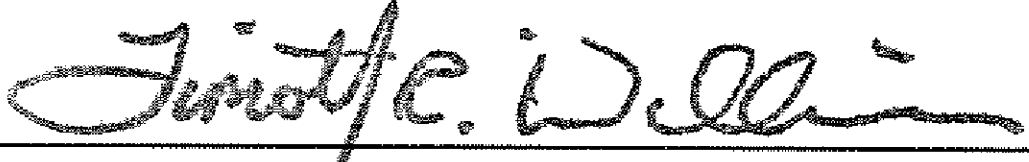
ORDER

On December 15, 2015, Plaintiffs filed their Motion for Leave to File a Second Amended Construction Defect Complaint to (1) to remove the breach of implied warranties and implied warranty of habitability causes of action; (2) to substitute Kevin White and Allison Manz in place of Plaintiff Robert D. Leal and amend the caption to reflect the same; and (3) to join Plaintiffs James A. Davis and Helen Lowe-Davis, owners of 3816 Ocelot Court, Marc A. Frazier, owner of 3724 Alcantara Lane, Sandra Mite and Jose Jaquez, owners of 3732 White Lion Lane, Elena Morales, owner of 7109 Puetollano Drive, and Wilford and Sandra Savage, owners of 3813 Campanario Avenue. The Motion was served via U.S. mail and electronically served on all parties via the Clark County Court's Electronic Filing System and No Opposition was filed. Good cause being shown, the court grants Plaintiffs' Motion for Leave to File a Second Amended Construction Defect Complaint with the above entitled court pursuant to EDCR 2.23 and EDCR 2.20.

IT IS HEREBY ORDERED that Plaintiffs' Motion for Leave to File a Second Amended Construction Defect Complaint is GRANTED;

IT IS SO ORDERED.

DATED this 1st day of February, 2016


HONORABLE DISTRICT COURT JUDGE
NH

Respectfully Submitted by:

SHINNICK & RYAN NV P.C.

By: 

Bradley S. Rosenberg, Esq.
Bar No. 8737
4001 Meadows Lane
Las Vegas, NV 89107

Attorneys for PLAINTIFFS

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